

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL’S REPORT**

RR: 17L-01  
DATE RECEIVED: 01/10/2017  
DATES OF NOTIFICATION: 01/12/2017  
DATE OF LAST RESPONSE: 01/27/2017  
DATE ACTIVATED: 02/22/2017  
  
EXPIRATION OF SOL: 12/10/2020 –  
01/08/2021  
ELECTION CYCLE: 2016

**SOURCE:** Internally Generated  
**RESPONDENTS:** Council of Insurance Agents & Brokers  
PAC and Ken A. Crerar in his official  
capacity as treasurer  
**RELEVANT STATUTE  
AND REGULATIONS:** 52 U.S.C. § 30102(a)  
52 U.S.C. § 30104(a)  
52 U.S.C. § 30118(a)  
**INTERNAL REPORTS CHECKED:** Disclosure Reports  
**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The Reports Analysis Division (“RAD”) referred The Council of Insurance Agents & Brokers PAC and Ken A. Crerar in his official capacity as treasurer (“Committee”) for failing to timely disclose two related transactions concerning a transfer of Committee funds in the amount of \$700,000. The Committee acknowledges that the transactions occurred as the result of mistakes by accounting staff, and that it did not report the transactions until the issue was brought to the attention of the Committee’s treasurer after an audit.

As further discussed below, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3) and (4) and enter into pre-probable cause conciliation with the PAC.

## II. FACTS

The Committee is a separate segregated fund of The Council of Insurance Agents & Brokers ("Council").<sup>1</sup> On December 10, 2015, Alicia Anderson, the Council's Controller and the Committee's Custodian of Records, transferred \$700,000 from the Committee to the Council's operating account to meet an impending cash shortfall at the Council.<sup>2</sup> According to Anderson's declaration, she knew there were other accounts and assets that could have been used to cover the shortfall, but she transferred funds from the Committee's account because she believed doing so was "easiest."<sup>3</sup> On January 8, 2016—29 days later—Anderson transferred \$700,000 from the Council's operating account back to the Committee.<sup>4</sup> The Committee did not report these transactions on its 2015 Year-End or 2016 February Monthly Reports to the Commission, which Anderson prepared.

The Committee's treasurer learned of these transactions following the Council's annual audit, and on May 20, 2016, the Committee filed an amended 2015 Year-End Report and an

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<sup>1</sup> The Council of Insurance Agents & Brokers Political Action Committee, Statement of Organization (filed March 29, 2009), <http://docquery.fec.gov/pdf/449/29933398449/29933398449.pdf>.

<sup>2</sup> Resp., Dec. of Anderson (Jan. 30, 2017).

<sup>3</sup> *Id.* at ¶ 6.

<sup>4</sup> *Id.* at ¶ 8.

1 amended 2016 February Monthly report denoting the \$700,000 "mistaken disbursement."<sup>5</sup> On  
2 September 7, 2016, RAD sent the Committee requests for additional information ("RFAI")  
3 seeking explanations for the increased activity.<sup>6</sup> On October 5, 2016, and November 2, 2016, the  
4 Committee filed Form 99 Miscellaneous Reports explaining that the increased activity was the  
5 result of accounting mistakes made without the Treasurer's knowledge or authorization, the  
6 Committee had amended its reports, and it implemented remedial measures to prevent similar  
7 mistakes in the future.<sup>7</sup> On January 10, 2017, RAD referred the matter to the Office of General  
8 Counsel.

9 In the Committee's response to the referral, it reiterates that the Treasurer was unaware of  
10 the two transactions and would not have authorized them if he had known of them.<sup>8</sup> It  
11 characterizes the transfers as "an innocent mistake," and it details the safeguards the Committee  
12 voluntarily implemented to prevent recurrences.<sup>9</sup> These safeguards include: (1) removing the  
13 ability to make online transfers from the Committee's account; (2) allowing only the Treasurer  
14 and a newly appointed Assistant Treasurer to sign checks from the account in the future; and

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<sup>5</sup> The Council of Insurance Agents & Brokers Political Action Committee, 2015 Year-End Report, Amended (filed May 20, 2016), <http://docquery.fec.gov/pdf/157/201605209015991157/201605209015991157.pdf>; February Report, Amended (filed May 20, 2016), <http://docquery.fec.gov/pdf/226/201605209015991226/201605209015991226.pdf>.

<sup>6</sup> The Council of Insurance Agents & Brokers Political Action Committee, Request for Additional Information regarding 2015 Year-End Report (Sept. 7, 2016), <http://docquery.fec.gov/pdf/091/201609070300058091/201609070300058091.pdf>; The Council of Insurance Agents & Brokers Political Action Committee, Request for Additional Information regarding 2016 February Monthly Report, (Sept. 7, 2016), <http://docquery.fec.gov/pdf/089/201609070300058089/201609070300058089.pdf>.

<sup>7</sup> The Council of Insurance Agents & Brokers Political Action Committee, FEC Form 99 (Oct. 5, 2016), <http://docquery.fec.gov/pdf/837/201610059032169837/201610059032169837.pdf>; The Council of Insurance Agents & Brokers Political Action Committee, FEC Form 99, (Nov. 2, 2016), <http://docquery.fec.gov/pdf/599/201611029037018599/201611029037018599.pdf>.

<sup>8</sup> Resp. at 1.

(3) having staff from the Committee and the Council undergo training with outside counsel regarding proper disclosure and use of accounts.<sup>10</sup>

### III. LEGAL ANALYSIS

Under the Federal Election Campaign Act, as amended, the "treasurer of each political committee shall file reports of receipts and disbursements."<sup>11</sup> Such reports must include the identification of each person who makes a contribution in excess of \$200 and each person to whom a disbursement is made in excess of \$200.<sup>12</sup> Under the monthly filing schedule, which the Committee has elected under 52 U.S.C. § 30104(a)(4)(B), such reports are due on the 20th day after the end of the month.

The Committee failed to timely report the \$700,000 disbursement in its 2015 Year-End Report or the receipt of the same amount in its 2016 February Monthly Report. Although the Committee voluntarily amended its reports, it reported the \$700,000 disbursement four months late and the \$700,000 receipt three months late. Accordingly, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3) and (4) by failing to timely disclose its disbursement and receipt of the \$700,000 transfer.<sup>13</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> Resp., Dec. of Crerar.

<sup>11</sup> 52 U.S.C. § 30104(a).

<sup>12</sup> See 52 U.S.C. § 30104(b)(3)(A), (b)(5)(A); 11 C.F.R. § 104.3(a)(4), (b)(3).

<sup>13</sup> The factual record also indicates that the Council's transfer of the \$700,000 from its operating account to the Committee's account could be a prohibited contribution under 52 U.S.C. § 30118(a) and that the Council's Controller made the transfer without the authorization of the treasurer as required by 52 U.S.C. § 30102(a). Nevertheless, we believe that there are a number of mitigating factors that counsel in favor of not pursuing these issues. First, the purpose of the Council's transfer of funds was made to remedy the initial disbursement made by the Committee in error. In addition, other factors include the voluntary disclosure of the activity, the strong remedial measures the PAC adopted, and the fact that the contribution at issue was a one-time occurrence. Cf. MUR 7227

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(United Brotherhood of Carpenters) (analyzing contributions made in error over an eight-year period due to a programming glitch as excessive contributions, not as contributions in the name of another, a more serious violation) (open matter).

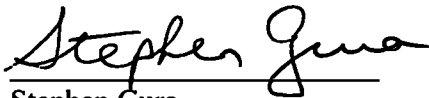
**V. RECOMMENDATIONS**

1. Open a MUR;
2. Find reason to believe that Council of Insurance Agents & Brokers PAC, and Ken A. Crerar acting in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(3) and (4);
3. Enter into pre-probable cause conciliation with Council of Insurance Agents & Brokers PAC, and Ken A. Crerar acting in his official capacity as treasurer, prior to a finding of probable cause;
4. Approve the appropriate Factual and Legal Analysis;
5. Approve the attached conciliation agreement; and
6. Approve appropriate letters.

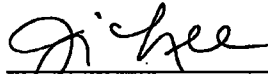
Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Associate General Counsel  
for Enforcement

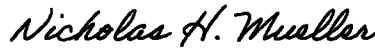
Date: 5.23.17



Stephen Gura  
Deputy Associate General Counsel  
for Enforcement



Jia Lee  
Acting Assistant General Counsel



Nicholas H. Mueller  
Attorney

Attachments:

1. Factual and Legal Analysis of Council of Insurance Agents & Brokers PAC

1 **FEDERAL ELECTION COMMISSION**  
2 **FACTUAL AND LEGAL ANALYSIS**  
3

4 **RESPONDENT:** Counsel of Insurance Agents & Brokers PAC  
5 and Ken A. Crerar in his official capacity as treasurer  
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**MUR** \_\_\_\_\_

7 **I. INTRODUCTION**

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9 Insurance Agents & Brokers PAC and Ken A. Crerar in his official capacity as treasurer  
10 ("Committee") for failing to timely disclose two related transactions concerning a transfer of  
11 Committee funds in the amount of \$700,000. The Committee acknowledges that the transactions  
12 occurred as the result of mistakes by accounting staff, and that it did not report the transactions  
13 until the issue was brought to the attention of the Committee's treasurer after an audit.

14 Based on the available information, the Commission finds reason to believe that the  
15 Committee violated 52 U.S.C. § 30104(b)(3) and (4) and enters into pre-probable cause  
16 conciliation with the Committee.

17 **II. FACTS**  
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19 The Committee is a separate segregated fund of The Council of Insurance Agents &  
20 Brokers ("Council").<sup>1</sup> On December 10, 2015, Alicia Anderson, the Council's Controller and  
21 the Committee's Custodian of Records, transferred \$700,000 from the Committee to the  
22 Council's operating account to meet an impending cash shortfall at the Council.<sup>2</sup> According to  
23 Anderson's declaration, she knew there were other accounts and assets that could have been used  
24 to cover the shortfall, but she transferred funds from the Committee's account because she

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4 voluntarily implemented to prevent recurrences.<sup>9</sup> These safeguards include: (1) removing the  
5 ability to make online transfers from the Committee's account; (2) allowing only the Treasurer  
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7 (3) having staff from the Committee and the Council undergo training with outside counsel  
8 regarding proper disclosure and use of accounts.<sup>10</sup>

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14 Committee has elected under 52 U.S.C. § 30104(a)(4)(B), such reports are due on the 20th day  
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16 The Committee failed to timely report the \$700,000 disbursement in its 2015 Year-End  
17 Report or the receipt of the same amount in its 2016 February Monthly Report. Although the  
18 Committee voluntarily amended its reports, it reported the \$700,000 disbursement four months

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- 1 late and the \$700,000 receipt three months late. Accordingly, the Commission finds reason to  
2 believe that the Committee violated 52 U.S.C. § 30104(b)(3) and (4) by failing to timely disclose  
3 its disbursement and receipt of the \$700,000 transfer.<sup>13</sup>

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